

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

ROGER PARKER on his own  
behalf and on behalf of  
all others similarly  
situated,

CIVIL ACTION FILE

Plaintiffs, NO. 5:22-cv-00268-TES

vs.

PERDUE FOODS, LLC,

Defendants.

VIDEO 30(b)(6) DEPOSITION OF  
PERDUE FOODS, LLC  
MICHAEL KEITH LEVINGOOD

November 14, 2023  
9:02 a.m.

Suite 4800  
191 Peachtree Street, N.E.  
Atlanta, Georgia

Tracy A. Warner, B-2168, RPR

David Ramirez, Videographer

1 MS. SANTEN: Objection, vague.

2 THE WITNESS: Can you clarify?

3 BY MR. KLORFEIN:

4 Q. Sure. When you reviewed any documents,  
5 did they refresh your recollection as to any facts  
6 that wasn't already in your mind?

7 A. Yes.

8 Q. What were those documents?

9 A. Contracts.

10 Q. Contracts with growers?

11 A. Yes.

12 Q. Any other contracts?

13 A. No.

14 Q. And I should say if I refer to a grower or  
15 a producer, can we have the understanding that I'm  
16 referring to a chicken grower that has performed work  
17 for Perdue?

18 A. Yes.

19 Q. And aside from contracts with growers, did  
20 you review any other documents?

21 A. No, not that I can think of.

22 Q. Real briefly, can you just tell me your  
23 job history with Perdue?

24 A. Sure. So I've been -- this is my fortieth  
25 year with the company. I started as a flock

1 supervisor. I did that for six years, moved up  
2 through the ranks when I did that. I also -- then I  
3 was three years working for corporate. I was a  
4 continuous improvement manager, so I got to travel  
5 around the company and learn about the company.

6 And then I went into operations. I went  
7 into the Salisbury plant for three years, worked my  
8 way up to plant manager. I went to Milford,  
9 Delaware, for -- we bought that facility, and I was  
10 there 18 months. We had bought -- we had built an  
11 operation in Cromwell, Kentucky, and they asked me to  
12 go out there and help fix that as the plant manager,  
13 so I was out there three years.

14 Then I came back to Milford as a complex  
15 manager. And I did that from 2000 to 2006. From  
16 2006 to 2007, I had all the plants on the shore. And  
17 then in 2007, they created a new job, VP of live  
18 production, live operations. So I had all live  
19 operations from 2007 to 2000 and -- end of '15.

20 And then start of '16, I got my current  
21 role. So I'm vice president, chief animal care  
22 officer, and farmer relationship advocate for the  
23 company.

24 Q. What does that role entail?

25 A. So I have nobody reporting to me. So my

1 BY MR. KLORFEIN:

2 Q. If you would refresh your screen, you  
3 should see Plaintiffs' Exhibit 4. It's a 12-page  
4 document. And it ranges from Perdue 1580 through  
5 1591. Once you've got it in front of you and you've  
6 had a chance to look at it, let me know.

7 And my first question will be: Do you  
8 recognize this document?

9 A. I recognize, yes.

10 Q. What is it?

11 A. So this is biosecurity, the never-evers  
12 and dedicated-tos. We also have the  
13 government-specified line of separation and the  
14 government-specified perimeter buffer area defined as  
15 the government defines it. We have biosecurity  
16 footbaths that are used on the farm before entering  
17 the line of separation, and then we also have the  
18 broiler producer biosecurity Level 1, 2, and 3, which  
19 are best management practices for our farmers, our  
20 producers, to protect their birds.

21 Q. We'll go through a couple of these one by  
22 one, but one of the things that you said was that  
23 there was a government-imposed kind of regulation.  
24 Is that Bates 1581, that second page?

25 MS. SANTEN: Objection, vague.

1 you are a greater risk than somebody who never goes  
2 to a live bird market to make their birds sick.

3 And so you can just go through each one of  
4 those, and it's really letting them know if you add  
5 this to how you operate your farm, you -- most  
6 likely, you're going to reduce -- you're going to  
7 reduce your chances of getting sick. It's like  
8 you -- if you do a good job washing your hands, you  
9 should reduce the way you get sick.

10 Q. Great. And everyone should wash their  
11 hands.

12 A. Exactly. And the dedicated-tos are the  
13 next step, the same, okay? So if you're going to do  
14 the never-evers, then the dedicated-tos, if somebody  
15 visits your farm, you should know who is visiting  
16 your farm. You should have the visitors comply with  
17 the biosecurity BMPs that you've implemented on your  
18 farm and we've recommended, you should implement  
19 those. You're the one -- you're there 24 hours a  
20 day. We're not, because it's your business and your  
21 farm.

22 So you just go through each one of those,  
23 farm dedicated shoes. You know, you go down to the  
24 local supermarket and you're wearing your chicken  
25 shoes, what are you picking up on your shoes and what

1 are you bringing back to the farm? If you only have  
2 farm-dedicated shoes, what's the -- you have less  
3 risk of bringing something into the house. So this  
4 is more of how they operate. And you can see we've  
5 added the line of separation. That's the laws of the  
6 chicken house. That's what that is.

7 The perimeter buffer area, years ago  
8 before the USDA came out with this, we used to just  
9 protect your farm from the road. Well, a lot of  
10 these farms are right next to their dwelling house.  
11 They have visitors come. They're not thinking about  
12 it. You know, they say, oh, I'm protecting from the  
13 road. But the visitor wants to visit the chicken  
14 house and they don't do any of this. So we drew a  
15 farm around the -- we drew a line around the  
16 production area.

17 The government says, define your  
18 production area, your BP -- PBA, your perimeter  
19 buffer area, label that. So we have a picture of  
20 that, and we have a line drawn. So in their head, in  
21 their minds when they cross, they go, oh, I'm in the  
22 PBA. Never-evers, dedicated-tos, am I doing -- is my  
23 farm plan the best? And it's their farm plan. They  
24 have to rate the farm plan.

25 Q. That's right. And in your answer, I think

1 in there that the way our third-party auditors are  
2 looking at things and they discuss there's a  
3 different way to audit, then she would go in and have  
4 to make a change in a document, and then all those 11  
5 locations would then have to follow that change.

6 Q. And then the growers would also have to  
7 follow the change?

8 A. Only the things in here that apply to the  
9 growers. This is more than just our farmers.

10 Q. Right. But it includes guidelines for the  
11 farmers as well?

12 A. I'm just saying that what you said is,  
13 only changes in here that apply to our farmers would  
14 be what we would go and talk to our farmers about.

15 Q. Let's talk about a couple of those.

16 A. Sure.

17 Q. Turning to Bates 3540.

18 A. 35 --

19 Q. 3540. It's about 83 pages in.

20 A. (Witness complies.)

21 Q. The title page says "Producer Caretaker  
22 Poultry Care Training."

23 A. Yes.

24 Q. Is this the training that would apply to  
25 growers?

1 A. Yes.

2 MS. SANTEN: Objection, vague.

3 THE WITNESS: Yes.

4 BY MR. KLORFEIN:

5 Q. Is it provided to all growers?

6 A. Yes.

7 Q. And growers are expected to follow these  
8 instructions?

9 MS. SANTEN: Objection, vague.

10 THE WITNESS: We train them.

11 BY MR. KLORFEIN:

12 Q. And Perdue trains with the expectation  
13 that growers follow these trainings?

14 A. Yes.

15 MS. SANTEN: Same objection, vague.

16 BY MR. KLORFEIN:

17 Q. And growers are required to follow the  
18 guidance in these trainings?

19 MS. SANTEN: Same objection, vague.

20 THE WITNESS: We train them because we're  
21 going to be audited on it. And, yes, we want  
22 them to follow them.

23 BY MR. KLORFEIN:

24 Q. You require them to follow these  
25 guidelines?



1 Q. I noticed as you were flipping through  
2 that you put these pages in different sections on the  
3 table. Was there a reason you did that?

4 A. Yeah. I wanted to separate them so when  
5 you ask me the questions, I can see them.

6 Q. And did you sort them into any type of  
7 category?

8 MS. SANTEN: Just object generally. This  
9 isn't covered by the topics at all. If he wants  
10 to respond in his individual capacity, he can.

11 MR. KLORFEIN: This is squarely within the  
12 policies that --

13 MS. SANTEN: How he organized papers on a  
14 table for purposes of being able to see  
15 everything so he could respond to your question  
16 is not covered by the topics at all. I think he  
17 just said he did it that way so he could see  
18 everything so he could fully respond to your  
19 questions. And so that was his response. I  
20 don't think there's any further response needed.

21 MR. KLORFEIN: Your objection is noted.

22 BY MR. KLORFEIN:

23 Q. Did you categorize these on the table for  
24 any particular reason?

25 A. I wanted to pull out the euthanization.

1 Q. And why did you do that?

2 A. Because it's a requirement.

3 Q. And I see a couple pages that you pulled  
4 out related to euthanization. Can you read the Bates  
5 numbers for the pages that fall in that category?

6 A. 3548, 3544, and I also included the  
7 hotline, 3544.

8 Q. I got 3548, 3544. I'm not sure I got the  
9 last one.

10 A. 3547. That's the euthanization.

11 Q. And those are all requirements that Perdue  
12 has for growers?

13 A. Uh-huh.

14 MS. SANTEN: Provide a yes or a no.

15 THE WITNESS: Yes.

16 BY MR. KLORFEIN:

17 Q. Aside from the euthanizing slides that we  
18 just talked about, did you put any other slides into  
19 another category of bucket on your table?

20 A. There's -- yes.

21 Q. And what was that category?

22 A. Pretty much they were recommended ---  
23 recommended that levels of production that match,  
24 that we need to be sure the farmers understand that  
25 these will be audited against, that -- you know, that

1 are the same on both of those, okay? We have GAP,  
2 Global Animal Partnership, that's a -- that's for  
3 birds that you sell to Whole Foods. That's for  
4 birds -- all of our organic birds are Global Animal  
5 Partnership Level 3 audited. Then we also have --  
6 all of our organic birds are also audited -- all  
7 those farmers perform specific audits for GAP, and  
8 they're audited to be organic-certified.

9 So all these audits -- plus, we have  
10 customer audits. There's some customers that want to  
11 audit our programs. So we have all these audits.  
12 Generally, the audits follow the same basics of  
13 what's in this, okay, some minor tweaks. So we want  
14 to be sure we're providing our customers what we say  
15 we are with poultry care.

16 Not only this, we also have NAE, no  
17 antibiotics ever, PVP. Our farmers are tied into  
18 that one, just because they can't be running any  
19 antibiotics on their farm, or they're no longer NAE.  
20 Now, that would be prescribed by our veterinarians.  
21 So they don't -- but they also know on the contrary  
22 they can't go buy it off the shelf and go run it on  
23 their birds. They would be out of the program then,  
24 out of the program of NAE.

25 So it's -- all this training is so that we

1 provided, whether it uses the required, or who paid  
2 for the signage, clothing. Perdue requires that some  
3 or all the growers have the same or similar  
4 equipment, signage, or clothing."

5 Okay. When I look at the signage, you've  
6 got to tie some of these together. So farm signs, we  
7 put a sign at the end of the lane with the farmer's  
8 name on it. Why we do that is truck drivers are  
9 delivering feed to the farm. We want to make sure  
10 the feed is delivered to the right farm, so they  
11 look. So we put these farms -- and we pay for that.

12 Biosecurity sign, it's in the biosecurity  
13 list. It's also audited for the 14 steps from the  
14 government to be indemnified that we have to have a  
15 biosecurity sign up.

16 The feed bin signage, we put numbers on  
17 the bins. When we deliver, there could be two or  
18 three bins per house and A, B, and C. And when they  
19 order feed, they might want the feed to only go in  
20 C bins, so you've got to identify the bins, so we do  
21 that (indicating).

22 Q. And I don't want to interrupt. You can  
23 continue, but I just wanted to note for the record  
24 that you put your hand, when you were referring to  
25 biosecurity, on Exhibit 3.

1 Q. And are the flock supervisors trained on  
2 all the forms?

3 A. Just like I said, generally, all the forms  
4 have the same information on them. It's just the  
5 multiple weeks -- really, the big difference is the  
6 number of weeks. A small bird is only going to be  
7 four weeks. A large bird is going to be eight weeks.  
8 So the same information, it's just spread out over  
9 eight weeks versus four weeks.

10 So there's not -- once you train them on,  
11 here's the visitation, it's not a difference other  
12 than you're going to visit a large bird eight  
13 times -- at the max, eight times -- and a small bird  
14 four times. That's it.

15 Q. Gotcha. So there will be an extra sheet  
16 for those extra weeks in the --

17 A. Yeah, and they're supposed to visit once a  
18 week, right, recommended to visit once a week. So if  
19 you visit and they're four-week-old chickens, you  
20 would use the four-week-old visitation. If  
21 they're -- the next week, you would use the five-week  
22 visitation.

23 Q. And earlier in your testimony you said  
24 that some flock advisors might skip a week.

25 A. Correct.

1 Q. At their discretion with -- in conjunction  
2 with their live production manager?

3 A. Uh-huh.

4 Q. Is that right?

5 A. Yes.

6 Q. What about on the flip side from the  
7 grower? If a grower is doing very well, can they  
8 refuse to have visitation?

9 A. No.

10 Q. So turning back to this document, on Bates  
11 1398.

12 A. Yes.

13 Q. It says "Broiler flock handoff to plant."

14 A. Yes.

15 Q. This is an inspection that occurs at the  
16 handoff?

17 A. This is -- no. This -- you want me to  
18 explain?

19 Q. Sure.

20 A. So depending on the -- this is done at  
21 different ages. Small birds, this would be done  
22 during the third week. On medium birds, this might  
23 be done during the fifth week. This sheet is filled  
24 out by the flock advisor seven days before the birds  
25 go to process.

1           A.       Yes. A difference would be euthanization  
2       and culling is pretty much every week you're going to  
3       ask it, right? If the bird is four weeks old, you  
4       only ask until four weeks. If the bird is eight  
5       weeks old, you would ask eight times.

6                       So it's the same -- but the other  
7       questions like litter condition, ammonia, you  
8       probably ask every week. But, like, current lighting  
9       program, it's not asked every week. So it -- but the  
10      gist of them all are asked, consolidated or spread  
11      out.

12          Q.       Okay. Now, production, that middle  
13      category, is that similar or different to the other  
14      two categories?

15          A.       They pretty much stay the same every week.  
16      It doesn't matter. They're the checks -- they're the  
17      basic minimal checks that we're going to look at when  
18      we come. Every week, you're going to look at feeder  
19      height. So they're -- every week, they're the same.

20          Q.       And that's production -- these production  
21      checks are consistent across all flocks?

22          A.       Yes. The -- I'd have to look at them all.  
23      But just to clarify on my part, water flow rate,  
24      okay? If you see water flow rate, it may change the  
25      numbers on different weeks. But they're still

1 looking at the flow rate.

2 Q. Gotcha.

3 A. If you looked at actual pressure that they  
4 wrote that in -- so some of those, they write in. So  
5 they're recording what it actually is. Yeah,  
6 they're -- they're blocked, so they actually have to  
7 put that data in. So they are going to be -- they  
8 look at it each week, but the flock advisor actually  
9 puts in what's happening at that moment. Does that  
10 help?

11 Q. So the criteria of whether or not they're  
12 in compliance does not change. The question is --  
13 the change is what's the proper level?

14 A. Right.

15 Q. And so looking at this, it looks like  
16 "minimum run time, actual pressure, water flow rate"  
17 are written there?

18 A. Yes.

19 Q. So that question is going to be asked  
20 every week?

21 A. Correct.

22 Q. But the answer that is adequate or not is  
23 going to change because the flow might need to be  
24 different based on the week?

25 A. Yes.



1 Area."

2 So anybody who enters the farm is supposed  
3 to sign in, except for the farmer. It's their farm.  
4 You don't make them sign in to their own farm. Feed  
5 mill, we know when we're delivering feed to the farm.  
6 Live haul, we know when we're scheduling live haul.  
7 And chick delivery, we know when we're scheduling  
8 chick delivery. Anybody else entering the farm  
9 should sign in.

10 Its main purpose is tied to biosecurity  
11 because we want to know if we had a disease outbreak,  
12 we could look on here and see who was on that farm.  
13 We could call them up and go, where else did you go  
14 after this farm? So, really, it's a log to help us  
15 in case we got into a high-path situation to help us  
16 stop the disease quicker, and that's really the  
17 purpose of this.

18 Q. And this applies to all growers?

19 A. All growers have a mailbox. All growers  
20 have a visitation log. But we -- they don't do  
21 anything. It's us. We stick it in the box. They  
22 don't sign it. So it's really -- we stick it on the  
23 farm. We collect it.

24 Q. Got it. And Perdue requires that it be  
25 posted at the farm?